

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NUCARE MEDICAL SOLUTIONS, INC.,

Plaintiff,

v.

Case No. 24-C-463

CITADEL DIAGNOSTICS, et al.,

Defendants.

ORDER

On March 19, 2024, Plaintiff NuCare Medical Solutions, Inc., filed this breach of contract action against Defendants Citadel Diagnostics, RMP Safety Services, Inc., American Safety Group, and Alfredo Valdez in Brown County Circuit Court. On April 18, 2024, Defendants timely removed the action to this court and contemporaneously filed a motion to dismiss for failure to state a claim upon which relief can be granted. On June 10, 2024, the court granted an indefinite extension of time to respond to that motion as the parties sought to hold settlement discussions. On September 9, 2024, the parties informed the court that they had reached an impasse in settlement discussions. Accordingly, the court directed Plaintiff to respond to Defendants' motion to dismiss or file an amended complaint on or before October 25, 2024. Plaintiff filed an amended complaint on October 25, 2024.

Generally, the filing of an amended complaint renders moot any pending motion to dismiss. *See, e.g., Lim v. Central DuPage Hosp.*, 972 F.2d 758, 762 (7th Cir. 1992) (noting trial judge's denial of pending motion to dismiss as moot in light of amended complaint); *Johnson v. Dossey*, 515 F.3d 778, 780 (7th Cir. 2008) ("When an amended complaint is filed, the prior pleading is

withdrawn and the amended pleading is controlling.”). Plaintiff’s amended complaint addresses many, if not all, of the potential pleading defects that Defendants raised. Defendants are free to file a new motion to dismiss in light of the amended complaint should they continue to believe that Plaintiff’s claims would not survive a challenge under Federal Rule of Civil Procedure 12(b)(6). However, the currently pending motion to dismiss (Dkt. No. 2) is **DENIED as moot**.

SO ORDERED at Green Bay, Wisconsin this 28th day of October, 2024.

s/ William C. Griesbach
William C. Griesbach
United States District Judge